

**From:** Damon Butler  
**To:** Microsoft Anti-Trust at USDOJ  
**Date:** 1/22/02 11:28am  
**Subject:** Microsoft Settlement

I am writing to urge the USDOJ to *\*reject\** the proposed settlement of the Microsoft anti-trust case. Time and again, Microsoft has been proven *\*time and again\**, in court, to be a monopolist and to have abused that monopoly power. As such, any proposed settlement must be both:

- (1) a fair and just *\*punishment\** for breaking the law, and
- (2) a powerful inhibitor that prevents Microsoft from continuing its anti-competitive behavior

Any settlement that does not satisfy both of these criteria is insufficient. As recent history has proven, court orders, consent decrees, and other out-of-court settlements have failed to prevent Microsoft from abusing its monopoly. ANY SETTLEMENT THAT GIVES MICROSOFT THE SLIGHTEST CHANCE OF CONTINUING ITS ANTI-COMPETITIVE BEHAVIOR MUST BE DISMISSED! Not only does it make real, rational sense, it is also the law.

Why must the current proposed settlement be dismissed? Because it fails both of the listed criteria.

In regards to point (1), the only real "punishments" being levied are minor. If the settlement is accepted, for example, Microsoft would no longer have absolute control over the appearance of the Windows desktop. Is this really a punishment? Windows already has, "integrated" into it, software for multimedia applications and Internet access. Windows favors such software whether or not it is prominently displayed, and users are *\*very\** aware, thanks to marketing, about what is and is not "integrated" into their computer's operating system no matter what icons appear on the desktop or what items appear in the Start menu. Software from other manufacturers must be independently purchased or downloaded, and then installed. And even then it may not work properly with Windows (witness Microsoft's court-proven attempts to handicap non-Microsoft software). Users are aware of these issues. Do you really think changing the appearance of the desktop will really change the behavior of users and Microsoft?

Another prominent "punishment" of the settlement: the proposed giveaway of hundreds of millions of dollars of PC-compatible hardware and Microsoft software to school districts, is again NO PUNISHMENT AT ALL!! The value of these giveaways, about \$1 billion, is not punishing to a company with many times that amount of cash in the bank! It can be argued that giving computers to needy schools is a good thing. For the sake of argument, I will agree that this is a good thing, but this settlement all but guarantees that such giveaways be of a nature that benefits Microsoft and only Microsoft! IS IT REALLY "PUNISHING" TO "FORCE" MICROSOFT TO GIVE MICROSOFT'S OPERATING SYSTEM SOFTWARE TO HUNDREDS OF MILLIONS OF AMERICAN CITIZENS WHEN THE COMPANY IS GUILTY OF EXTENDING AND PRESERVING A MONOPOLY OF OPERATING SYSTEM SOFTWARE??!! How can such a move be considered a punishment??!!

In regards to point (2), the settlement does *\*nothing\** to actually inhibit Microsoft's maintenance and extension of its monopoly. In fact, if the settlement takes effect, and Microsoft is allowed to supply Microsoft software to school districts, the government and pursuant states will be actively enabling the extension of Microsoft's monopoly!!

If Microsoft has a monopoly in PC operating systems, as has been proven, then the settlement should do the *\*opposite\**! It should *\*curtail\** Microsoft's monopoly. Such remedies must also be true

\*punishments\* in accordance with point (1).

It is difficult to say what combination of remedies can be specified that are both legitimate, real punishments for a law-breaker that also prevent the law-breaker from continuing in its criminal activities. But it should be obvious that the current proposed settlement of the case is woefully inadequate.

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